

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENIA KALOUDIS, Individually,	:	CIVIL ACTION
and as Administratrix of the Estate	:	
of GEORGE KALOUDIS, Deceased	:	
	:	
vs.	:	
	:	
STAR TRANSPORT, INC.	:	
and BRIAN L. MILES	:	NO. 02-CV-4482

**SUPPLEMENTAL RESPONSE OF PLAINTIFF TO DEFENDANT'S
(1) REPLY TO PLAINTIFF'S MOTION TO PRECLUDE THE TESTIMONY OF BRIAN
MILES AT TRIAL AND (2) MOTION FOR EXTENSION OF TIME**

This is a negligence action stemming from the death of plaintiff's decedent, George Kaloudis ("Mr. Kaloudis"). Mr. Kaloudis burned to death on April 3, 2002 when a truck operated by Miles, an employee of defendant Star Transport, crushed Mr. Kaloudis' car against a median barrier on Route 1 in Delaware County.

Plaintiff's complaint was filed on June 18, 2002 in the Court of Common Pleas of Philadelphia County. On July 8, 2002, Defendants removed the matter to Federal Court pursuant to 28 U.S.C. § 1441.

For whatever reason, defendants failed to take the deposition of the plaintiff before the discovery cut-off. They also did not produce defendant Brian Miles for deposition, despite defense counsel's admission that they knew his whereabouts at least six weeks before the discovery cut-off.

On January 17, 2003, plaintiff filed a motion to preclude Miles from testifying at trial because he was not produced for deposition, despite four (4) deposition notices. On January 22, 2003, the day after the Court's discovery cut-off, defendants filed a motion to extend all deadlines in this matter.

Although, defendants offered no excuse for their delay, as a courtesy and to avoid further motions, plaintiffs offered to permit the deposition of plaintiff after the discovery cut-off and to withdraw the motion to preclude Miles under certain conditions. See the February 11, 2003 letter from Charles Hehmeyer to Kirsten Moore, a copy of which is attached hereto as Exhibit 1. Defendants did not accept either offer.

Since the dates that the parties submitted briefs on both (1) plaintiff's motion to preclude the testimony of Brian Miles and (2) defendants' motion for extension of time, plaintiff submitted expert reports to defendants as required by Judge Kauffman's August 20, 2002 Scheduling Order. Plaintiff submits that it now would be very prejudicial to her if the Court re-opens discovery and/or permits Mr. Miles' testimony after she has submitted all her expert reports. See the February 21, 2003 letter from Roy DeCaro to Kirsten Moore, a copy of which is attached hereto as Exhibit 2.

Plaintiff therefore respectfully requests that the Court deny defendants' request for an extension and also bar Brian Miles from testifying at trial.

Respectfully submitted,

RAYNES McCARTY BINDER ROSS & MUNDY

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